



Agenda Item Number: 3-21-13.6C

**SANDOVAL COUNTY
BOARD OF COUNTY COMMISSIONERS**

Date of Commission

Meeting: March 21, 2013

Division / Elected

Office: Office of the County Manager

Staff Contact: Phillip Rios, County Manager

Title of Item: Memorandum of Agreement - City of Rio Rancho Water Fill Station

Action Requested: Motion to Approve a Memorandum of Agreement between Sandoval County and the City of Rio Rancho for Construction Costs of the Water Fill Station / \$35,718

Summary: On August 16, 2012, the Commission reallocated the 2005 Incentive Revenue Bond proceeds. District 3 and 4 committed their district funds (\$17,859 each) to the City of Rio Rancho's Water Fill Station. The funds will defray construction costs incurred on the project. Recommend Board of County Commission approval.

Attachments: Memorandum of Agreement

FISCAL IMPACT

Bond proceeds available in bond account.

STAFF ANALYSIS SUMMARY

County Manager: N/A

**Initiating Elected Official /
Division Director:** N/A

Legal: Approved as to form PFT 3/12/2013

Finance: Recommend Approval CCH 3/14/13

MEMORANDUM OF AGREEMENT
BETWEEN
THE COUNTY OF SANDOVAL
AND
CITY OF RIO RANCHO

This Memorandum of Agreement is entered into this _____ day of _____ 2013, between the COUNTY OF SANDOVAL (hereinafter referred to as the "COUNTY") and CITY OF RIO RANCHO (hereinafter referred to as the "CITY").

WHEREAS, the CITY has constructed a Water Fill Station that allows residents easier access to potable water; and

WHEREAS, the COUNTY desires to assist the CITY with funding to provide COUNTY residents with potable water; and

WHEREAS, the COUNTY wishes to provide funding to the CITY for offset costs which will benefit the rural residents of Sandoval County.

IT IS, THEREFORE, AGREED THAT:

1. CITY OBLIGATIONS:

The CITY will provide information regarding usage of the station for a one year period. This information will detail the total amount and value of water sold, a summary showing the number of customers who live in the CITY and the COUNTY, after being in operation after 1 year. This information will be provided to the CITY's Governing Body with a copy provided to the COUNTY. The City will provide the construction breakout cost of the Water Fill Station to the COUNTY.

2. COUNTY OBLIGATIONS:

A. Representative. The COUNTY hereby designates the Water Resource Administrator as the representative of the COUNTY, who serves as the liaison between the COUNTY and the CITY. This representative shall be available to the CITY at all reasonable times within the normal working hours of the COUNTY. Any questions which arise between the CITY and the COUNTY, during the term of this Agreement, shall be directed to the COUNTY's designated representative.

B. Compensation. The COUNTY will pay the CITY a total amount of \$35,718 to defray construction costs incurred on this project and as required by paragraph 1.

3. TERM:

The term of this Agreement shall become effective on the date of execution by all parties and shall terminate on June 3, 2014.

4. TERMINATION:

This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination.

This provision is not exclusive and does not waive either party's legal rights or remedies caused by the default/breach of this Agreement. Immediately upon receipt by either the COUNTY or CITY of notice of termination of this Agreement, the CITY shall: (1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of the COUNTY; and (2) comply with all directives issued by the COUNTY in the notice of termination as to the performance of work under this Agreement.

5. ASSIGNMENT:

The CITY shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the COUNTY.

6. LIABILITY:

As among the parties, each party acknowledges that it will be responsible for claims or damages arising from personal injury or damage to persons or property to the extent they result from negligence of that party's employees. The liability of COUNTY and CITY will be subject in all cases to the immunities and limitations of the New Mexico Tort Claims Act, Sections 41-4-1 *et seq.* NMSA 1978, as amended.

7. RECORDS AND AUDIT:

The CITY shall maintain detailed records of all services identified in the Scope of Service. The COUNTY shall have the right to inspect all records and to audit billings both before and after payment; payment under this Agreement shall not foreclose the right of the COUNTY to recover excessive or illegal payments.

8. RELEASE:

The CITY, upon final payment of the amount due under this Agreement, releases the COUNTY, its officers, agents and employees from all liabilities, claims and obligations whatsoever arising from or under this Agreement. The CITY agrees not to purport to bind the COUNTY to any obligation not agreed to unless the CITY has express written authority from the COUNTY to do so, and then only within the strict limitations of that authority.

9. AMENDMENT:

This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto.

10. APPROPRIATION/USE OF FUNDS:

It is expressly understood that any obligation, monetary or otherwise, shall be subject to and contingent upon the availability and sufficiency of resources for appropriations and for obligations. If sufficient funds are not appropriated or sufficient authority is not given to perform such obligations, this Agreement is subject to termination by either the CITY or the COUNTY. The COUNTY's decision as to whether sufficient appropriations are available shall be final.

11. PROCUREMENT REQUIREMENTS:

The CITY agrees to follow the State Procurement Code and applicable procurement regulations in the expenditures of any COUNTY funds received. The CITY must retain a permanent file containing a record of all expenditures for a period of three years. The COUNTY auditor may audit those accounts as part of the yearly audit.

12. SCOPE OF AGREEMENT:


This Agreement incorporates all the agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such agreements, covenants and understandings have been merged into this written Agreement. No prior agreement, covenant or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

13. APPLICABLE LAW:

This Agreement shall be governed by the Ordinances of the County of Sandoval and the laws of the State of New Mexico.

IN WITNESS WHEREOF, both the COUNTY and CITY have caused this Memorandum of Agreement to be duly executed.

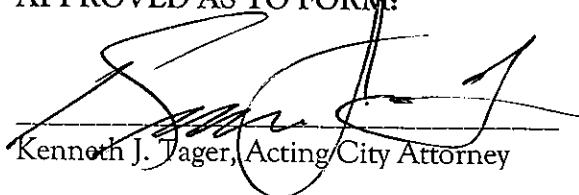
CITY OF RIO RANCHO


James C. Babin, Acting City Manager

COUNTY OF SANDOVAL

Phillip Ríos, County Manager

APPROVED AS TO FORM:


Kenneth J. Jager, Acting City Attorney

APPROVED AS TO FORM:

Patrick F. Trujillo, County Attorney

ATTEST:

Eileen Garbagni, County Clerk